

### **REMARKS**

The foregoing amendments and these remarks are responsive to the Office Action dated March 9, 2005. Applicant acknowledges with appreciation the Examiner's indication that claims 12-20, 23-26, 28 and 29 are allowed, and that claim 6 recites allowable subject matter. Favorable reconsideration and allowance of the present application is respectfully requested in view of the foregoing amendments and these remarks.

#### **Finality of Office Action**

It is respectfully submitted that the finality of the Office Action should be withdrawn because, for example, the Office Action does not provide a prima facie rejection of claim 9. Claim 9 is rejected as being obvious over U.S. Patent No. 5,175,976 to Petry et al. in view of U.S. Patent Nos. 4,899,790 and 5,388,389 to Odenthal and Tisma, respectively. Petry et al. as modified by Odenthal fails to teach or suggest claim 9's recitation of "each carrier comprises a pair of opposed side plates hingedly attached so as to be pivotable toward an open position for receiving products therewithin." The Office Action attempts to overcome the deficiencies in the teachings of Petry et al. and Odenthal by relying upon Tisma; however, Tisma fails to overcome the deficiencies.

In an effort to overcome the deficiencies in the teachings of Petry et al. and Odenthal, the Office Action indicates that:

Tisma teaches a carrier (mandrel-14, fig. 6) having two opposed side walls (14a, 14b, fig. 6), which are slidably attached so as to slide toward an open position for receiving the products (see col. 6, lines 36-40) so that the drop of product does not have to be too accurate. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided slidably attached opposed sidewalls of carrier of Petry et al. as taught by Tisma so as to slide toward an open position for receiving the products so that the drop of product does not have to be too accurate.

However, combining the references in the manner suggested by the Office Action fails to provide the invention of claim 9 because not any one of Petry et al., Odenthal and Tisma teach or suggest "each carrier comprises a pair of opposed side plates hingedly attached so as to be pivotable toward an open position for receiving products therewithin" as recited by claim 9, with

emphasis added. Indeed, nowhere in Office Action or in Tisma is it indicated that Tisma's L-shaped sheet metal members 14a and 14b which slide over one another are "hingedly attached so as to be pivotable toward an open position for receiving products therewithin". Moreover, the Office Action does not provide any explanation whatsoever as to any motivation or incentive for modifying Tisma's L-shaped sheet metal members 14a and 14b. Accordingly, it is respectfully submitted that the rejection of Claim 9 is improper and should be withdrawn, such that the finality of the Office Action should be withdrawn and the foregoing amendments should be entered. On the other hand, if the Examiner deems that finality should not be withdrawn, it is alternatively respectfully submitted that the amendments should be entered because they place the present application in condition for allowance and require only a cursory review by the Examiner.

#### Amendments

The only rejected independent claim, claim 1, has been amended to represent objected-to claim 6 rewritten in independent form including all of the recitations of the base claim and any intervening claims; therefore, it is respectfully submitted that claim 1 is allowable. Claim 4 has been cancelled and dependent claims 5 and 10 have been amended for the sake of consistency.

Claim 9 has been rewritten in independent form. It is respectfully submitted that claim 9 is allowable for at least the reasons mentioned above under the "Finality of Office Action" heading.

#### Rejections

It is respectfully submitted that all of the rejections have been overcome by way of the foregoing amendments and remarks. Nonetheless, all of the rejections presented by the Office Action are respectfully traversed.

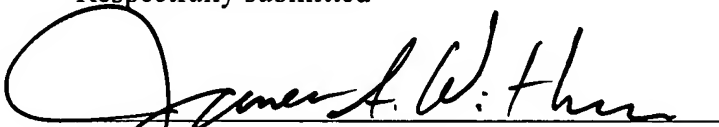
#### Authorization

The Commissioner is hereby authorized to charge any additional fees that may be required for the timely consideration of this Amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment, to Deposit Account No. 09-0528.

Summary

In view of the foregoing, it is respectfully submitted that all of the independent claims are allowable. It is further respectfully submitted that the dependent claims are allowable due to their respective dependence from allowable independent claims, and because the dependent claims further patentably distinguish.

If for some reason the Examiner deems that the present application is not in condition for immediate allowance, it is respectfully requested that the Examiner telephone the undersigned at 704-331-4904, in an effort to expedite prosecution.

<u>6/4/05</u> Date	Respectfully submitted  James A. Witherspoon Registration No. 36,723
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CUSTOMER NUMBER 26158  
WOMBLE CARLYLE SANDRIDGE & RICE  
P. O. Box 7037  
Atlanta, Georgia 30357-0037  
(704) 331-4904 (Telephone)  
(704) 444-9971 (Facsimile)